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QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES

Situation of human rights in the territory of the former Yugoslavia

Final report of Ms. Elisabeth Rehn, Special Rapporteur of the Commission on Human Rights on the situation of human rights in Bosnia and Herzegovina, the Republic of Croatia and the Federal Republic of Yugoslavia

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Introduction

1. This is the final report of the Special Rapporteur, Ms. Elisabeth Rehn, who has been appointed as the Special Representative of the Secretary-General in Bosnia and Herzegovina, effective 16 January 1998. Ms. Rehn has served as the Special Rapporteur on the situation of human rights in the territory of the former Yugoslavia since 27 September 1995. On accepting that nomination, the Special Rapporteur stipulated that her main objectives would be to present an objective and impartial assessment of the human rights situation in all countries covered by the mandate, to recommend actions aimed at improving that situation, and to intervene in specific matters where appropriate.

2. The Special Rapporteur concluded early on that in order to realize her objectives, it would be necessary to conduct regular and frequent field missions to gather information first-hand, to meet with victims of human rights violations, and to present directly to national authorities her findings and conclusions. Since taking up her function, the Special Rapporteur has conducted a total of 19 field missions (normally lasting about one week), the first in October 1995 and the last in November 1997.

3. The Commission on Human Rights in its pertinent resolutions (most recently, 1997/57) requested the Secretary-General, from within existing resources, to make all necessary resources available for the Special Rapporteur to carry out her mandate successfully and, in particular, to provide her with adequate staff in the field to ensure effective continuous monitoring and coordination with other international organizations involved. Field offices of the Office of the High Commissioner for Human Rights (OHCHR) have accordingly been established in Bosnia and Herzegovina, the Republic of Croatia, the Federal Republic of Yugoslavia and the former Yugoslav Republic of Macedonia. The Special Rapporteur wishes to emphasize that she would have been unable to implement her mandate satisfactorily without the support of the OHCHR field operation.

4. In resolution 1997/57, the Commission on Human Rights requested the Special Rapporteur to provide to the Commission at its fifty-fourth session her overview of the human rights situation in the territory of the former Yugoslavia since the beginning of the conflict. To implement that aspect of her mandate, the Special Rapporteur, with the assistance of external experts, prepared a detailed project plan for the requested report. Unfortunately, OHCHR has been unable to secure adequate resources for the project, in spite of assurances given to the Special Rapporteur by some Governments which were willing to provide financial support. This situation is highly regrettable, and the Special Rapporteur recommends that all efforts be made to prepare such a report in the near future.

5. The purpose of this final report is, first, to provide an overview of the main achievements which have been made in the field of human rights in Bosnia and Herzegovina, the Republic of Croatia, and the Federal Republic of Yugoslavia since Ms. Rehn took up her post in September 1995. The report further indicates the principal problems remaining and considers the challenges ahead, both for the Governments concerned as well as for the international community, including the next Special Rapporteur.

I. BOSNIA AND HERZEGOVINA

A. The situation in 1995-1996

6. The first mission taken by Ms. Rehn in her capacity as Special Rapporteur was in early October 1995. In Bosnia and Herzegovina she visited Sarajevo, where she met with government officials, leaders of non-governmental organizations (NGOs) and others, and Pale, where she met with the de facto Bosnian Serb authorities. At that time, access to Serb-held territories was still very limited, but the Special Rapporteur was guaranteed freedom of movement throughout the entire region. A ceasefire agreement, which had been implemented on 2 October, had a tremendous impact on life in Sarajevo, which had been a target of shelling and sniping for over three years. The security situation in the city was markedly improved, although some firing incidents were still occurring. At the same time, expulsions of minorities were continuing in various parts of the country, especially from Bosnian Serb-held territories in the north-west and central regions. Within the subsequent two months, however, the political landscape would change dramatically with the signing of the General Framework Agreement for Peace in Bosnia and Herzegovina (the Dayton Agreement) in Paris, on 14 December 1995. The Special Rapporteur had been present in Dayton, at the invitation of Mr. Carl Bildt and Mr. Richard Holbrooke, to present her views both to the parties and the mediators.

7. In one of her first reports on Bosnia and Herzegovina, submitted to the Commission on Human Rights on 14 March 1996 (E/CN.4/1996/63), the Special Rapporteur described the major changes that had taken place in the country since the signing of the Dayton Agreement. There had been no massacres caused by military attacks on civilian targets, no mass expulsions of people from their homes and no blockades of humanitarian supplies. She described the feeling in Bosnia and Herzegovina as having been "transformed from despair to hope", with profound implications for the country's human rights and humanitarian situations.

8. However, an abundance of serious human rights problems were still being reported. The Dayton Agreement, at annex 6, had committed the parties to securing "to all persons within their jurisdiction the highest level of internationally recognized human rights and fundamental freedoms", including the rights and freedoms provided in the European Convention for the Protection of Human Rights and Fundamental Freedoms and its Protocols. The reality three months after Dayton was very different. A wide range of rights - notably those to liberty and security of person, and to freedom of movement - were still being violated with impunity. The rights to return and to choice of residence, guaranteed in annex 7 to the Dayton Agreement, were only beginning to be tested. Although returns of refugees and displaced persons were gradually to increase, they would be mainly to areas under the control of authorities sharing the nationality of the returnees (so-called "majority returns"). Pilot projects on return agreed to at Dayton between the partners in the Federation of Bosnia and Herzegovina - to Jajce, Stolac, Travnik and Bugojno - were encountering serious obstacles.

9. From the early days of her mandate, the Special Rapporteur emphasized the importance of giving all possible support to the Commission on Human

Rights created by the Dayton Agreement (annex 6) and to the Office of the Federation Ombudsmen, as well as to elements of civil society including local NGOs. She stressed that short-term steps could be taken by the international community to protect human rights in Bosnia and Herzegovina, but that it would be vital to have national mechanisms in place to safeguard human rights well into the future.

B. Progress made

10. The return process for the approximately 2 million people from Bosnia and Herzegovina who became refugees or were internally displaced has been slow and difficult. Since the signing of the Dayton Agreement, some 400,000 refugees and displaced persons have returned, including 110,000 refugees from abroad. However, it is estimated that over 600,000 Bosnian refugees remain abroad, while over 800,000 persons are still displaced within the country. The returns that have taken place so far are still mainly majority returns. According to the United Nations High Commissioner for Refugees, only some 35,000 minority returns have taken place, mostly in the Federation. Recently there have been indications that minority returns also are taking place to the Republika Srpska, mainly in the west. The returns are spontaneous and the returnees as well as local authorities prefer to give this trend a very low profile.

11. The "easy returns" are now over, and 1998 will be the year for minority returns. Hence, suitable conditions for minority returns must be ensured, including full respect for freedom of movement and general respect for human rights. The key role in providing security to returnees will be played by local law enforcement authorities. It is thus imperative that the International Police Task Force (IPTF) continue restructuring the local police forces in both entities and continue monitoring to ensure that local police act according to international standards, providing security to all regardless of national background.

12. Many ongoing human rights concerns are related to the question of return. These include the lack of security guarantees for returnees, administrative obstacles which are often implemented in a discriminatory manner to hinder returns, shortage of housing and difficult social and economic conditions, including lack of employment opportunities. The Special Rapporteur also wishes to call attention to the humanitarian situation of persons still living in collective centres. Some such persons have spent more than two years in terrible circumstances. The Special Rapporteur visited many collective centres in the country during her tenure, including in November 1997 when she visited the centre in Bjelovac, in eastern Bosnia and Herzegovina. In that centre there were some 200 displaced persons, mainly from Sarajevo, living 12-14 persons per room, with only two showers for the entire population.

13. An emerging issue which will have to be addressed connected to returns is relocations, e.g. returns to a place other than that of origin. There have been recent examples of "hostile relocations", especially to the zone of separation between the entities. Relocations should be supported only in specific cases, when return clearly is not possible in the foreseeable future (as, for example, in the case of the women from Srebrenica). It must always

be voluntary. It may also be borne in mind that a significant number of displaced persons and refugees do not wish to return to their places of origin for a range of reasons, including economic concerns. It is therefore of paramount importance to create opportunities for employment and other incentives for return.

14. Returns of minorities will be central to full implementation of the Dayton Agreement. In the Federation, returns of minorities (Bosnian Croats and Serbs) to Sarajevo have frequently been prevented through discriminatory practices of the authorities, e.g. in the allocation of occupancy rights in socially owned apartments. Access to property in the city must be provided to pre-war occupants intending to return, regardless of their nationality. In the divided city of Mostar, also, the return process has faced serious obstacles. UNHCR, together with the Office of the High Representative (OHR), has tried to facilitate returns through special procedures. However, especially in predominantly Bosnian Croat west Mostar, the authorities have been persistently uncooperative, and the process has largely been stalled. More than 3,100 applications for return (for 10,000 persons) have been received and are awaiting processing. In the Republika Srpska, meanwhile, few minority returns have taken place and the necessary political will has been lacking.

15. As elaborated in the last report of the Special Rapporteur, it is of great importance that the property laws, which currently do not comply with international standards, be amended in both entities, especially the Law on Abandoned Apartments and the Law on Housing Relations in the Federation and the Law on Use of Abandoned Property and the Law on Housing Relations in the Republika Srpska. Such amendments would allow fully for the return of hundreds of thousands of pre-war occupants and owners of property. While there has been some progress made in the Federation to amend the property laws, largely as a result of pressure by the international community, the Republika Srpska has not taken any steps to amend those laws.

16. Freedom of movement has continued slowly to improve, but the critical matter of uniform licence plates has not yet been solved. The Special Rapporteur, who has repeatedly called for a uniform system to be implemented, welcomed the High Representative's plan, to be undertaken in cooperation with the IPTF and the North Atlantic Treaty Organization (NATO)-led international Stabilization Force (SFOR), to require uniform licence plates after 31 January 1998. The progress made to date on freedom of movement has been due largely to the new IPTF checkpoint policy, implemented in May 1997, designed to reduce the number of illegal checkpoints throughout the country.

17. In her last report on Bosnia and Herzegovina to the Commission on Human Rights dated 15 October 1997 (E/CN.4/1998/13), the Special Rapporteur paid particular attention to the questions of the administration of justice, law enforcement, and police reform. It is clear that any further improvement in the human rights situation in Bosnia and Herzegovina will require not only the restructuring of the local police in both entities, but also the reform of the judiciary. The Special Rapporteur is extremely concerned about judicial procedures since the outcome of trials often seems to depend on the

nationalities of the judge and the parties. A further serious problem with the judiciary, in both entities, is a lack of qualified staff and financial resources.

18. The Special Rapporteur is pleased to note that the process for establishing the cantonal judicial structure in the Federation of Bosnia and Herzegovina is finally nearing its completion. As of the end of 1997, 9 of the 10 cantons of the Federation had already adopted laws on courts and laws on prosecutors. Harmonization of the judicial system, which was left dysfunctional and fragmented as a result of the conflict, will be vital to promoting confidence in the rule of law throughout the country. The Special Rapporteur has expressed deep concern, however, that judicial appointments continue in many cases to be based purely on ethnic or political criteria rather than on the professional merits of candidates.

19. The Special Rapporteur has acknowledged the progress made in the Federation of Bosnia and Herzegovina in bringing its criminal legislation into general compliance with the standards of the ECHR. She has called on the relevant authorities in the Republika Srpska immediately to undertake similar efforts, both to ensure adequate protection of human rights in that entity and to prevent the judicial systems of the two entities from drifting apart. In this respect, the Special Rapporteur has urged the responsible authorities in Bosnia and Herzegovina and its two entities immediately, and no later than 31 January 1998 (as stipulated in the conclusions of the Bonn Peace Implementation Conference of December 1997), to establish a mechanism for effective inter-entity judicial cooperation. The virtual absence of such cooperation, e.g. in the areas of service of process and access to evidence across inter-entity boundary lines, has resulted in frequent violations of due process and fair-trial principles.

20. In her last report, the Special Rapporteur considered at length the functioning of the national human rights institutions, including the Human Rights Ombudsperson and the Human Rights Chamber (together, the "Commission on Human Rights"), as well as the Commission for Real Property Claims (established under annex 7 to the Dayton Agreement). The Special Rapporteur has been pleased to note since then that progress has been made in drafting legislation to ensure implementation of the decisions and recommendations of these institutions. It will further be of paramount importance that these institutions receive adequate funding. The Special Rapporteur wishes again at this juncture to acknowledge the good work of the Office of the Federation Ombudsmen in protecting human rights, and the work the Ombudsmen have done to educate the public generally on human rights issues. The Special Rapporteur notes the continuing need to assess what impact a Federation Human Rights Court, as foreseen in the Federation Constitution, would have on the effective functioning of human rights mechanisms already existing in Bosnia and Herzegovina, before such court is established.

C. Challenges ahead

21. The principal challenge ahead in Bosnia and Herzegovina will be to facilitate the return of refugees and displaced persons to their places of origin so as to reverse the effects of the war and so-called "ethnic cleansing". All efforts must be taken to achieve this goal, and thereby fully

implement annex 7 to the Dayton Agreement. The Special Rapporteur strongly demands of the authorities and political leaders that they work for this goal, not against it. Housing and property laws which serve to block returns must be amended and implemented in both entities. Resources for reconstruction projects must be made available only to those who comply with the Dayton Agreement and are receptive to minority returns.

22. The Special Rapporteur emphasizes the importance of creating democratic local police forces serving all the citizens of Bosnia and Herzegovina. Restructuring and training of local police forces, including specialized training, must therefore continue. It is equally important that monitoring of local police forces to verify their compliance with international standards continue, and that human rights violations by law enforcement officials be investigated and followed up systematically by the IPTF. A functional system of internal police investigations must be established for police forces in both entities.

23. The judicial system equally needs to be reformed to ensure an impartial and independent judiciary. Many elements must be addressed, including the processing of judicial appointments, monitoring of sensitive trials, inter-entity cooperation and others. Legislative reform is needed, especially in the criminal justice area. This is a major challenge and more resources will be required, along with closer cooperation among organizations active in this field.

24. The Special Rapporteur would like to point out that, despite the progress made in two years, many human rights problems remain. Violations taking place now are often different in nature and more subtle, but still aim at maintaining separation of the three national groups. Discrimination is frequent in all areas of life, including access to housing, employment and education. Reports of arbitrary job dismissals are frequent throughout the country. Systematic human rights monitoring and reporting thus remain necessary, and more effective response mechanisms must be developed. More attention will also have to be paid to promoting economic, social and cultural rights and ensuring respect for the fundamental principle of equal rights for all people.

25. The Special Rapporteur would like to emphasize the importance of NGOs to the consolidation of peace and the creation of civil society in Bosnia and Herzegovina. NGOs and other citizens' groups have been in continuous contact with the Special Rapporteur, and she has found this cooperation very fruitful. It will continue to be important that efforts be made to support the developing NGO community in Bosnia and Herzegovina, and that international organizations provide assistance by facilitating contacts with NGOs from outside the region, and offering advice in creating programmes of action.

26. The Special Rapporteur would like to draw attention, once again, to the plight of the families of the nearly 20,000 persons estimated to be missing in Bosnia and Herzegovina. They have the right to know the truth about what happened to their loved ones and, whenever possible, to receive the mortal remains. The authorities as a result must improve their cooperation with each other and with the international community. All available information should be provided to relevant international agencies, including the International

Committee of the Red Cross (ICRC), OHR, the International Commission on Missing Persons (ICMP) and the International Criminal Tribunal for the former Yugoslavia (ICTY). The Special Rapporteur believes the question of missing persons to be one of the most burning issues in Bosnia and Herzegovina.

27. Finally, and linked to the problem of missing persons, the Special Rapporteur wishes to stress that those guilty of war crimes must be brought to justice. Those indicted by the ICTY should surrender or be extradited. The national authorities are responsible for arresting war criminals who do not surrender. If they fail to do so, IPTF and SFOR will have to act; this also puts pressure on those still at large to surrender. The Special Rapporteur strongly believes that 1998 must be the year when all those indicted will be brought to The Hague. Reconciliation and the restoration of confidence throughout the country require that justice be carried out.

II. REPUBLIC OF CROATIA

A. Introduction

28. Since her appointment in September 1995, the Special Rapporteur has conducted many missions to the Republic of Croatia and considered the country's human rights situation in six reports to the Commission on Human Rights and the General Assembly, the most recent of which was dated 31 October 1997 (E/CN.4/1998/14). The Special Rapporteur wishes once again to thank the Croatian authorities for their constructive cooperation throughout the duration of her mandate. She is also grateful for the support and assistance received from international and local organizations, including human rights NGOs, working in the Republic of Croatia.

B. Security of person and property in the former sectors

29. After more than two years of observing human rights trends in Croatia, the Special Rapporteur is of the opinion that while more still needs to be accomplished, there are good reasons for optimism for the future. When she first took up her mandate in 1995, serious violations of human rights and humanitarian law were reported to have occurred during and after Croatian military operations in the summer of that year, when the Government seized back control over formerly Serb-held areas. These violations, many of which evidently were carried out by Croatian soldiers, had involved killings of civilians, massive looting and burning, and attacks on fleeing civilians and refugees. According to information recently received from the Government, as of October 1997, a total of 5,580 criminal proceedings had been carried out in relation to the military operations carried out in the former Sectors North and South, of which 559 are at the investigative stage, 3,785 are in first instance proceedings, and 1,236 have been brought through to final decisions.

30. Over the course of the months following the operations, largely because of international pressure brought on the Government, incidents of violence against remaining Croatian Serbs in the former sectors gradually decreased. Although some forms of abuse continue to be reported, such as ethnically based harassment and intimidation, the security situation in the former sectors has substantially improved.

31. The region of Eastern Slavonia, Baranja and Western Sirmium (the Region) will be the last of the former sectors to revert to Croatian government control, on 15 January 1998, when the mandate of the United Nations Transitional Administration for Eastern Slavonia, Baranja and Western Sirmium (UNTAES) comes to an end. The Special Rapporteur has noted continuing reports coming from the Region of misconduct by officers of the Transitional Police Force (TPF) and a failure by the TPF vigorously to investigate alleged abuses, especially those committed against Serbs. One of the clearest tests of the Government's commitment to reconciliation will be the extent to which the Croatian police authorities maintain a climate of security for all residents of the Region in the critical months following the termination of the UNTAES mandate.

C. Returns

32. The question of returns continues to be a contentious issue in Croatia. Over the past two years, nearly 200,000 Croats from Bosnia and Herzegovina and from the province of Kosovo, Federal Republic of Yugoslavia, immigrated to Croatia, many due to persecution. Many other ethnic Croats, refugees from the early years of the war, have returned from third countries. Meanwhile, returns of Croatian Serbs from abroad have been slow. Some optimism was generated with the conclusion of such accords as the Agreement on Normalization of Relations between the Republic of Croatia and the Federal Republic of Yugoslavia, signed in Belgrade on 23 August 1996, and the Agreement on Operational Procedures for Return, signed in Osijek on 23 April 1997 by representatives of the Croatian Government, UNHCR and UNTAES. However, of some 200,000 Croatian Serbs who fled to the Federal Republic of Yugoslavia and Bosnia and Herzegovina after Croatia's military operations in 1995 in the former Sectors West, North and South, fewer than 10 per cent have returned, most of them elderly people.

33. As for displaced persons, as of 9 December 1997, the Governmental Office for Displaced Persons and Refugees (ODPR) reported receiving 26,076 family applications, for a total of 76,067 displaced persons, for return to the region of Eastern Slavonia. By the same date, ODPR had issued 4,424 certificates for family returns, covering over 12,000 persons, of whom some 8,000 persons, mostly Croats, are in fact estimated to have returned. Meanwhile, ODPR estimates that some 9,500 Croatian Serbs have departed the Region for other parts of Croatia.

34. Factors inhibiting returns have been not only bureaucratic but have also stemmed from the legal and financial obstacles to the recovery of property, as well as the occupation of homes by the newly arrived Croat immigrants, unrealistic government deadlines for Croatian Serbs to apply for reconstruction assistance, delays in funding for reconstruction, and the former sectors' dire economic situation. Prior to the conclusion of the UNTAES mandate on 15 January 1998, Croatian authorities were trying to encourage Croatian Serbs to remain in the Region. However, the widespread fear and uncertainty among members of the Serb population reportedly led to a number of departures from the Region, mainly for the Federal Republic of Yugoslavia, although it is difficult to ascertain whether such departures were intended to be permanent.

D. Property rights

35. The failure to resolve the question of property rights has been a major obstacle to return. Croatian Serb refugees continue to face serious difficulties in regaining access to properties given over to displaced and immigrant Croats under the Law on the Temporary Takeover and Administration of Specified Property. Despite guidelines established to encourage such action by local authorities, there has been little progress in either the restitution of or compensation for Croatian Serb property which was taken over in this way. The Special Rapporteur has acknowledged the difficulties faced by the authorities in accommodating Bosnian Croat refugees and Croat displaced persons, but the continuing problems for the return of Croatian Serbs cause doubt as to the will of the Government to solve the housing problem in an equitable manner. A small number of annulments of decisions by local housing commissions handing properties over to newly arrived Croats in some places has been a positive development, but enforcement of these decisions has yet to be confirmed

36. The Special Rapporteur wishes to reiterate her view that all citizens' property rights must be respected equally. She has welcomed promised amendments to the Law on the Status of Displaced Persons deleting provisions which favour displaced Croats over other groups and create unreasonable obstacles to Serbs seeking to reclaim their lawful property.

37. The Government programme for the sale, on reasonable terms, of Croatian Serb property to ethnic Croat refugees through the Agency for Mediation in Transactions with Specified Real Estate (APN) has not yet reached a meaningful scale. Of the more than 5,000 requests for such transactions which have been received, fewer than 200 have so far been completed by the APN owing to financial constraints. The result is that some elderly people have been selling their properties at unreasonably low prices.

E. Humanitarian and social issues

38. Since September 1995, some progress has been made by the Croatian authorities in alleviating the difficult humanitarian situation faced by persons in the former sectors, most of whom are elderly Croatian Serbs. Much credit is due to the assistance provided by international relief agencies and the Croatian Red Cross. The Government has restored basic infrastructure such as electricity and water systems, although imbalances remain in the provision of reconstruction assistance for destroyed houses, with priority apparently still being given to ethnic Croats. Concern also remains over discriminatory measures applied in the granting of Croatian citizenship papers. The field offices of the High Commissioner for Human Rights have documented numerous cases of arbitrary interpretation of certain provisions of the Croatian Law on Citizenship.

39. One positive aspect of nationwide elections held in April 1997 throughout the territory of Croatia including, for the first time since 1990, the region of Eastern Slavonia, was a considerable rise in the number of applications for the issuance of Croatian documents. Some 145,000 citizenship papers and 126,000 passports have been issued to residents in the Region. However, concern remains over some 900 denials of citizenship pending for many

months in administrative tribunals, which need to be effectively resolved. Although citizenship facilitates access to social benefits, such as pensions, the Special Rapporteur has received information on several cases in which long-term residents of Croatia have been denied such rights. In a few such cases, however, favourable decisions have finally been issued.

40. Discrimination by employers against Croatian Serbs continues to be reported in the workplace, even for well-educated people, including partners in mixed marriages. Considering the difficult economic situation prevailing in the former sectors, the Special Rapporteur believes that the "economic resurgence" of these areas will be crucial for the future of all citizens. She has therefore urged that special attention be paid to the areas by relevant government programmes for economic development.

F. Missing persons

41. Identifying the fate of more than 2,000 missing persons is one of the most urgent humanitarian problems facing Croatia in the future and should be dealt with as a matter of the highest priority. The Special Rapporteur has frequently met with associations of families of the missing and disappeared. The Croatian Government Commission for Detained and Missing Persons has held talks with its counterpart in the Federal Republic of Yugoslavia to attempt to clarify this matter, with little result. The Special Rapporteur regrets not having been able to assist in monitoring exhumations which have been conducted in Croatia, but she strongly recommends such monitoring in the future, especially in view of criticism expressed by families of missing persons concerning a lack of concrete results.

G. Other human rights concerns

42. The Special Rapporteur has acknowledged several positive steps that have been taken by the authorities since her appointment two and a half years ago, towards strengthening respect for human rights in Croatia. These include, inter alia, Croatia's accession to the Council of Europe and signing of the European Convention on Human Rights; the signing of the Framework Convention for the Protection of National Minorities and the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment; the establishment of a working group in September 1996, composed of government representatives and independent experts, to examine the compatibility of Croatian law with the European Convention on Human Rights and its Protocols; the establishment of a long-term mission of the Organization for Security and Cooperation in Europe (OSCE); the strengthening of the office of the Croatian Ombudsman.

43. The adoption of a general amnesty law in September 1996 was a positive step in building confidence and alleviating uncertainties among Croatian Serbs with respect to the peaceful reintegration of Eastern Slavonia. Serious doubts have persisted, however, about its fair implementation. With the imminent departure of UNTAES, the local Serb population in the region of Eastern Slavonia continued to be concerned about the amnesty law and, in particular, the uncertainty about precisely who is covered by the law's

provisions. International observers have also raised serious doubts about the fairness of trials conducted against persons, either in person or in absentia, who have been determined not to fall within the amnesty's protection.

44. In late 1997, the Croatian Government took an important step towards full cooperation with the International Criminal Tribunal for the Former Yugoslavia, by facilitating the surrender of 10 war-crime suspects who had been indicted for alleged involvement in atrocities committed in central Bosnia and Herzegovina in 1993.

45. Although electronic media, especially television, in Croatia remains under the effective monopoly control of the ruling Croatian Democratic Union (HDZ) party, there is reason for optimism concerning free expression in the print media, which include several independent newspapers. However, recent judicial proceedings initiated against some independent journalists appear to reflect a degree of hostility to free expression on the part of the authorities. In this respect, the Special Rapporteur is concerned about criminal proceedings currently under way against an editor and a reporter of the satirical weekly Feral Tribune for alleged seditious libel and defamation of the President of the Republic. On the positive side, the independent "Forum 21" was recently launched, with various journalists coming together to build a platform for television in Croatia in the twenty-first century.

46. The Special Rapporteur wishes to note her view that freedom of media means responsibility to report in an objective manner with respect for basic human rights. When these responsibilities are not respected and when the freedom is misused, as when media incite nationality based hatred or intolerance, such expression is impermissible. That does not imply censorship, but rather respect for the freedom of media in a democracy.

H. Challenges ahead

47. The future of human rights in Croatia will depend a great deal on the level of effective legal guarantees given to minority populations. To this end, after the successful completion of the UNTAES mission in January 1998, the authorities should emphasize confidence-building among different national and ethnic groups and make true reconciliation one of their central goals. The Special Rapporteur welcomed the establishment at the end of 1997 of the Committee for the Realization of the Programme on the Establishment of Confidence, Acceleration of Return and Normalization of Life in the War-Affected Areas (PoC), which has called for greater tolerance in all aspects of life and aims at facilitating the two-way return of displaced persons.

48. Prior to its closure on 15 January 1998, UNTAES, in cooperation with other agencies, had organized various seminars on reconciliation and conflict resolution, targeting different sectors of society such as educators, law enforcement officials, lawyers, judges and health workers. Although the PoC Committee has been dynamic in organizing meetings at different levels and initiating appointments at the local level, its real challenge lies in the strength of the commitment of local authorities responsible for the implementation of reconciliation initiatives. The role of the media in promoting tolerance should be strengthened, and there should be active

involvement of all religious communities to ensure harmonious inter-ethnic relations. Also, the work of the PoC could benefit from the inclusion of representatives of civil society, NGOs and youth movements. The implementation of developmental, socio-economic and humanitarian projects aimed at breaking down barriers between groups will be important for the future, although the PoC has drawn attention to a lack of financial resources to achieve its goals.

49. The extent of mine contamination in Croatia is enormous, and presents the serious threat of many deaths and injuries to innocent victims in years to come. The mines are mostly in rural areas where displaced persons are returning to work on the land. Because mine clearance is a slow process, emphasis must be put on mine-awareness training programmes that disseminate information more effectively and target, first of all, the most vulnerable part of the population, including children and returning refugees. The Special Rapporteur would like to recognize the Government's programme of education on raising mine-awareness among children, initiated together with the United Nations Children's Fund (UNICEF).

50. The human rights climate in Croatia has benefited from the good work of national and international human rights organizations. An important contribution has been made, as well, by the Croatian Ombudsman, although the office continues to be faced with a range of difficulties including a shortage of financing and personnel. The Special Rapporteur believes that coordinating the efforts of these institutions and improving channels of communication would be beneficial for the human rights environment. In addition, the health, educational and social situation of children should continue to be addressed to create a sound basis for the future.

51. The Special Rapporteur has noted that a needs-assessment mission for a technical cooperation project was conducted by staff of the High Commissioner for Human Rights in late 1996. The mission identified, both among professionals and the general public, a lack of awareness of international human rights standards and means for their implementation. It noted the importance of human rights education programmes for the effective promotion of human rights. Additionally, training of government officials in reporting obligations, providing expertise to develop human rights curricula in the schools, and creation of a human rights documentation centre were cited as possible goals for the future. The Special Rapporteur hopes that this programme will be implemented at the earliest possible opportunity.

52. The Special Rapporteur's mandate appears to have had a significant impact in Croatia through the effect of her missions and interventions and the related work of the field offices of the High Commissioner for Human Rights. She has greatly appreciated the continuing cooperation she has received from all relevant interlocutors and the testimony provided her by refugees and displaced persons, women's associations, religious leaders, human rights groups and members of the diplomatic corps. Through her missions and the field offices of the High Commissioner for Human Rights, a solid network of contacts has been developed and maintained. The Special Rapporteur would like to emphasize the important role of NGOs and other citizens' groups, with whom she has maintained continuous contact since assuming her post in 1995.

This cooperation has been fruitful, and the Special Rapporteur has tried to use all means at her disposal to support the growing NGO community in Croatia. She looks to the Government to promote a strong framework for civil society which will help NGOs in Croatia to thrive in the future.

III. FEDERAL REPUBLIC OF YUGOSLAVIA

A. General observations

53. Since taking up her mandate in 1995, the Special Rapporteur has built up a functioning working relationship with the Government of the Federal Republic of Yugoslavia. Shortly after her appointment she visited the country for the first time in November 1995, and has since conducted 11 field missions to all parts of the country relevant to her mandate, including Kosovo, Sandzak and Vojvodina in the Republic of Serbia, and various locations in the Republic of Montenegro. The Special Rapporteur conducted her last field mission to the Federal Republic of Yugoslavia on 21-24 October 1997, when she visited the towns of Novi Pazar, Pristina and Belgrade.

54. The Special Rapporteur and OHCHR staff based in Belgrade have at all times enjoyed full freedom of movement and have been able to meet freely with representatives of local NGOs, private individuals and representatives of minorities. The Special Rapporteur would like to emphasize the importance of NGOs in the country's social fabric. Both NGOs and other citizens' groups (including women's and human rights organizations, students, disabled persons and others) have maintained steady contact with the Special Rapporteur, which has greatly assisted her in her work. The Government, for its part, has been forthcoming in facilitating the Special Rapporteur's visits to the country and in arranging her meetings with representatives of the State. A major step towards better cooperation was taken in March 1996 with the opening of the OHCHR office in Belgrade.

55. However, the Special Rapporteur is concerned that despite her repeated requests and a formal approach by the High Commissioner for Human Rights, the Government still has not authorized the OHCHR to establish an office in Pristina. It will be recalled that the Commission on Human Rights, in its resolution 1997/57, called on the Government to allow the opening of an office of the High Commissioner for Human Rights in Kosovo. A United Nations human rights presence in Kosovo would greatly facilitate the work of the Special Rapporteur and enable OHCHR staff to conduct more in-depth research and verification of alleged human rights abuses in that region. The need for such a presence is becoming increasingly urgent with tensions and violence mounting in Kosovo, and the Special Rapporteur believes its establishment would be to the benefit both of the population and the Government of the Republic of Serbia.

56. The cooperation extended by the Government has also been less than satisfactory in terms of its lack of responsiveness to interventions and recommendations by the Special Rapporteur. As discussed below, this has especially been the case with the Serbian Ministry of the Interior. The present report reviews some of the most pressing human rights concerns in the Federal Republic of Yugoslavia at the end of Ms. Rehn's tenure as Special Rapporteur, and also recalls a number of key recommendations made in her

earlier reports. A more comprehensive analysis of the overall human rights situation in the Federal Republic of Yugoslavia can be found in the Special Rapporteur's most recent report on the country (E/CN.4/1998/15).

B. Legal guarantees and institutional mechanisms

57. A matter of continuing concern in the Federal Republic of Yugoslavia is the absence of strong national mechanisms for redress, such as an Ombudsman institution. The Special Rapporteur has emphasized this problem in her reports and noted in her discussions with government representatives that an Ombudsman-like mechanism could considerably enhance citizens' possibilities fully to enjoy and protect their rights. The reactions by the authorities to this recommendation have been varied. The Special Rapporteur was pleased to note the positive attitude towards the proposal expressed by the Prime Minister of Montenegro (at the time of writing, the President-Elect) in discussions held in Podgorica in May 1997. In contrast, although the Serbian Ministry of Justice has shown some interest, it has nevertheless expressed reservations, referring to legal obstacles and characterizing the institution as alien to the Yugoslav judicial system and tradition.

58. In her communications with the authorities the Special Rapporteur has also strongly recommended that the Government follow the example of other former Yugoslav republics and ratify the Optional Protocol to the International Covenant on Civil and Political Rights. The Protocol's individual complaint mechanism would enable individuals to seek redress outside the Yugoslav judicial system after having exhausted all national avenues. The Special Rapporteur notes with regret that the Government has not so far indicated any interest in ratifying the Optional Protocol.

C. Police abuse, ill-treatment and impunity

59. In her earlier reports the Special Rapporteur expressed deep concern over the increasing number of allegations of police abuse, torture and ill-treatment in custody, which the competent authorities apparently allow to pass with impunity. She has continued to receive reports of such cases, particularly from Kosovo (discussed separately below), and has on several occasions in the last year submitted detailed information of these allegations to the Serbian Ministry of the Interior. In her meeting with the Minister in Belgrade on 24 October she reiterated her concern over these reports, and urged the Minister to investigate the cases brought to his attention. While the Ministry has so far responded to the Special Rapporteur's inquiries only sporadically, she was encouraged by the Minister's expressed readiness for increased cooperation. She is, nevertheless, concerned that the present unacceptable level of police abuse will persist, unless allegations of ill-treatment and torture are promptly investigated and perpetrators brought to justice. In this context the Special Rapporteur wishes to stress that the country is a party to the 1984 Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, and the competent authorities thus are obliged (under articles 12 and 13) to impartially investigate alleged cases of torture without delay.

60. It should be noted that cases of police abuse are not a problem exclusively associated with the volatile situation in Kosovo. Serious cases

of ill-treatment by the police were recorded, e.g. during winter demonstrations in Belgrade and elsewhere in 1996-1997, and later in connection with street protests in Belgrade on 30 September and 1 October 1997, in reaction to the ousting of the city's mayor, Mr. Zoran Djindjic, and other controversial acts. A large number of people were injured and some arbitrarily detained when police violently dispersed demonstrators.

D. Administration of justice

61. Safeguards for an independent judiciary remain weak in the Federal Republic of Yugoslavia, and the Special Rapporteur has recorded and reported on several examples of this problem in the past. Judges on all levels complain that they lack the material security and official authority that should be connected to their office. There are instances where law enforcement authorities have failed in their duty to implement court decisions. The new law on the judiciary, which could at least formally strengthen the position of the country's judges, is yet to be enacted.

62. Fair trial and pre-detention standards are particularly at stake in politically sensitive trials. In her report of 10 September 1997 (E/CN.4/1998/9), the Special Rapporteur presented her observations on two trials held in May-July 1997 in which 35 persons were charged with involvement in crimes against the State and "terrorist" activities. A third trial of 19 persons, 2 of whom were tried in absentia, accused of similar crimes opened on 27 October 1997 in Pristina. OHCHR staff from Belgrade monitored the court proceedings in all three cases. Lawyers representing the defendants in the October trial claimed that most of their clients were severely ill-treated or tortured in police custody and forced to give self-incriminating statements about their involvement in armed attacks against the police and other individuals. Lawyers also complained that they did not have free access to their clients during the pre-trial period. Some of the defendants were apparently held in unacknowledged detention for up to one month before being brought to an investigating judge. It is also reported that, on 18 November, three unidentified armed men forced themselves into the home of one of the defence lawyers, Mr. Hasan Hoti, harassing and threatening him and members of his family. The police arrived at the scene half an hour after the incident.

63. The court proceedings, which lasted approximately two months, were held in public and largely followed basic procedural standards. However, during the court hearings most of the defendants reiterated their allegations of torture and requested that their statements to the police be declared inadmissible as they had been given under duress. The court rejected this motion, and no action was taken to investigate the allegations of torture, as required under article 12 of the Convention against Torture. The Special Rapporteur also wishes to recall article 15 of the Convention, under which each State party shall ensure that statements which are established to have been made as a result of torture shall not be invoked in any proceedings. It further appears that the prosecution failed to present solid material evidence that would link the defendants to the charges concerned. On 16 December the Pristina District Court found 17 of the defendants guilty nonetheless, and sentenced them to prison terms ranging from 4 to 20 years. Two of the defendants were acquitted due to lack of evidence.

E. Freedom of expression and the media

64. During the years of conflict in Bosnia and Herzegovina and Croatia, the Government-controlled press in the Federal Republic of Yugoslavia routinely published material of a highly nationalistic nature, supporting and propagating intolerance towards other nations, including minorities living in the country. While some Yugoslav media still show signs of ethnic prejudice and hatred, the occurrence of such reports and articles has decreased in the last two years. The number of newspapers with an independent editorial policy has also grown. However, partly owing to the country's grave economic situation, the principal sources of information for the majority of the population remain television and radio. While a number of independent television and radio stations operate in Belgrade, the State-run broadcasting company clearly dominates the airwaves in the countryside. This problem has been particularly obvious in times of elections, when the State media have been strongly supportive of the ruling government coalition in Serbia. The much debated and criticized draft law on information has yet to be adopted by the Serbian Parliament. As noted in earlier reports, the drafts presented so far contain several provisions which could be used to limit freedom of expression.

F. Elections in Serbia

65. Problems and shortcomings in the electoral process in Serbia have been very much in focus in the last year. In her report of January 1997 (E/CN.4/1997/56), the Special Rapporteur gave her observations regarding irregularities during the September 1996 municipal elections in Serbia. In September 1997 parliamentary and presidential elections were held in Serbia. Twelve opposition parties including the Democratic Party and the Civic Alliance decided to boycott those elections, claiming that minimum requirements for fairness were not met. The elections were also largely boycotted by the ethnic Albanian population in Kosovo. The newly elected National Assembly has yet to be constituted, and the first round of the presidential elections failed to produce a winner as neither of the candidates secured a majority of the votes. The second round on 5 October was also inconclusive as less than 50 per cent of voters turned out to vote. As a result new elections were announced and the first round of voting was held on 7 December. This time the candidate of the Socialist Party, Mr. Milan Milutinovic, and Mr. Vojislav Seselj were the top two finishers, and they met in a second round of voting held on 21 December, when Mr. Milutinovic emerged as the victor. OSCE reported continuing irregularities also in the second round of these elections, observing, for example, that polling stations did not open on election day in different parts of the country. Despite this, results from some of these stations were tabulated showing a turnout of close to 100 per cent, and close to 100 per cent of the votes in favour of Mr. Milutinovic. International media monitors reported a clear bias on State television towards Mr. Milutinovic, who enjoyed a considerable advantage over Mr. Seselj in terms of both quantitative and qualitative coverage.

G. Kosovo

66. Since the beginning of her mandate the Special Rapporteur has paid particular attention to the human rights situation in Kosovo, continuously emphasizing that the mounting problems in that region must not be neglected in the larger Balkan context. In the last few months, armed attacks against the police and private individuals have claimed several lives and left many people wounded. As before, the organization calling itself "the Liberation Army of Kosova" has assumed responsibility for most of these acts. In reaction to these attacks the police have launched large-scale raids, in which houses have been searched and a large number of people questioned. The general public appears to be growing increasingly frustrated with the situation in Kosovo, which may give rise to further political radicalization and violence in the near future. Around 40 persons have reportedly lost their lives in armed attacks over the last two years.

67. On 26 November, heavily armed police units supported by armoured vehicles and helicopters reportedly surrounded a number of villages near Srbica, in an attempt to arrest a group of people suspected of involvement in armed attacks against the police a few days earlier. The siege culminated in a several-hour-long gunfire exchange, in which four police officers and one Kosovo Albanian man were wounded. At the same time the police also undertook armed action in the village of Lausa, and several persons who were caught in the crossfire were injured, including at least one minor. One Kosovo Albanian man, Mr. Halit Geci, later died of his injuries at hospital. The OHCHR Belgrade office inquired with the Serbian Ministry of the Interior whether any investigations had been initiated to clarify the circumstances of Mr. Geci's death. So far the Ministry has not responded.

68. The continuing occurrence of serious abuses by the police and security forces is one of the most alarming aspects of the human rights situation in Kosovo. During her visits to the region the Special Rapporteur has repeatedly raised this issue with the local authorities, and also personally interviewed victims of ill-treatment and torture. Regrettably, the OHCHR office in Belgrade continues to receive reports of such abuses on a regular basis, and has in the last months taken further testimony of individual cases.

69. On 17 October, Mr. Jonuz Zeneli, one of the defendants in the October trial in Pristina discussed above, died at the prison hospital in Belgrade. Mr. Zeneli had reportedly been in police custody since 30 April 1997, and was indicted on 28 July for alleged involvement in terrorist activities. The OHCHR office in Belgrade received reports indicating that Mr. Zeneli had been subjected to ill-treatment during interrogations, and suggesting he may have died of injuries sustained in police custody. However, according to official information received from the Serbian Ministry of Justice, he died as a result of serious illness. Meanwhile, one of the two defendants who were to be tried in absentia, Mr. Adrian Krasniqi, was reportedly shot dead by the police, during an armed attack on a police station in Klincina village near Pec on 15 October.

70. On 1 October 1997, the Independent Students' Unions of the Albanian-language parallel university organized street protests in Pristina and other locations in Kosovo, to voice their demand to return to State

university premises. OHCHR staff monitored the demonstration in Pristina on site. After blocking the demonstrators from proceeding beyond their gathering point, riot police violently dispersed the crowd using truncheons and teargas. Around 100 persons were injured in the police intervention and ensuing chaos. Seven leaders of the protest were badly beaten and taken to the central police station in Pristina for questioning. Similar scenes were reported from other towns where student protests were held the same day. A second demonstration held on 29 October passed without violence in Pristina. The Special Rapporteur had earlier appealed to the students during discussions in Pristina to act according to the law to avoid violence. She also requested the Minister of Interior in Belgrade to order the police not to use violence if there were no aggression on the part of the students. The Special Rapporteur was pleased to learn that the second demonstration in Pristina concluded peacefully. However, it was reported that the police used excessive force when dispersing gatherings in other locations, such as Kosovska Mitrovica and Pec.

71. Following international pressure, the so-called 3+3 Commission for the implementation of the September 1996 memorandum of understanding on education in Kosovo met in Pristina and Belgrade in early October 1997 under the supervision of the Italian humanitarian organization the Society of St. Eugidio. It appears that the talks were inconclusive with both parties still adhering to their original positions. The Albanian side claimed that the Serbian delegation refused to agree on a timetable for the return of Albanian students to schools and university premises, and that they demanded integration into the Serbian educational system as a precondition. The Albanian side insisted on a comprehensive approach, demanding the return of all students to all levels of education at the same time. Apparently the Serbian side favoured a step-by-step approach, starting with the normalization of the primary and secondary schools. Progress on implementation of the agreement will be essential to reduce inter-ethnic and political tensions in Kosovo.

H. Sandzak

72. During the conflict in the former Yugoslavia, the Sandzak region, with its long border with Bosnia and Herzegovina, was the scene of grave human rights violations generally attributed to Bosnian Serb paramilitary gangs, army reservists and the police. Thousands of Sandzak Muslims were forced to abandon their villages in the border regions around Sjeverin and Bukovica, due to harassment and violence, and tens of thousands of people fled Sandzak, mostly to western European countries. Several abductions of Muslims took place 1992-1993 in places such as Strpci and Mioce, none of which have ever been properly investigated by the authorities. Systematic ill-treatment and harassment by the police of mainly, though not exclusively, Muslim political activists were also recorded at that time.

73. Today the situation in Sandzak is relatively stable, and serious abuses are reported only sporadically. However, the Special Rapporteur continues to receive information indicating that members of the Muslim community experience discrimination, especially in employment and education, and that laws are unevenly and selectively applied depending on a person's ethnicity. Political tensions have also increased following the Serbian Government's decision in

July 1997 to impose mandatory rule in the municipality of Novi Pazar. The Special Rapporteur is concerned that inter-ethnic mistrust and animosity will persist in Sandzak, unless the State authorities accept their responsibility to investigate past abuses and address the remaining human rights problems in the region.

I. Montenegro

74. In the past year the Government of Montenegro has shown an increased willingness to cooperate with the Special Rapporteur. This has been evident, inter alia, in its prompt responses to her interventions and in its openness to consider and implement her recommendations. She is hopeful that this positive trend will continue in the future.

75. The first round of the Montenegrin presidential elections held on 5 October was inconclusive as neither of the candidates managed to secure more than 50 per cent of the votes cast. The two main contenders, incumbent President Momir Bulatovic and Prime Minister Milo Djukanovic, met in the second round of voting on 19 October, in which Mr. Djukanovic secured the majority of the votes, thus becoming the Republic's new President. The OSCE observer mission called the elections regular and technically well executed, and did not report any major violation of electoral rules Mr. Djukanovic is to assume his duties on 15 January 1998. However, immediately after the final outcome was announced Mr. Bulatovic protested the result, alleging major fraud on the part of Mr. Djukanovic's camp. The Federal Supreme Court was examining these complaints at the time of writing of this report.

J. Missing persons

76. More than four months after their last meeting, the Commission for Humanitarian Affairs and Missing Persons of the Federal Republic of Yugoslavia (FRY) and the Croatian Commission for Detained and Missing Persons met in Belgrade on 12 November. During the talks the FRY Commission demanded detailed data on former Yugoslav National Army soldiers missing in Bosnia and Herzegovina, and also expressed its dissatisfaction with identification protocols on persons killed in Croatia's military operations of 1995, which had been submitted earlier by the Croatian Commission. The exchange of information between the two Commissions appears to have stalled, but both parties agreed to meet again in Slavonski Brod on 23 December. Delegations representing the Republika Srpska (Bosnia and Herzegovina) and Bosnian Croats were also expected to attend these talks. Croatia has requested that the FRY submit 1,100 protocols of missing persons, but has received only 700 so far. For its part, Croatia has produced only 250 of the 956 protocols requested by the Federal Republic of Yugoslavia.

K. Challenges ahead

77. The Special Rapporteur is deeply concerned that the Government of the Federal Republic of Yugoslavia has largely ignored the recommendations presented in her earlier reports. She wishes to emphasize that the core of these recommendations concerns serious and deep-rooted problems regarding legislative reform, the rule of law and the issue of accountability and transparency in the work of State bodies. Until these issues, which affect

all citizens, are addressed, the problems of specific groups in society, such as ethnic and linguistic minorities, will remain unresolved. The Special Rapporteur calls again on the Government to take prompt and decisive action to review and implement the recommendations presented in her earlier reports.

78. The Government should take immediate steps to strengthen legal and other safeguards for the protection of human rights. It should in particular work towards creating an independent and easily accessible supervisory or redress mechanism, such as an ombudsman-type institution. The Government should also ratify the Optional Protocol to the International Covenant on Civil and Political Rights, which would enable individuals to bring human rights grievances to the attention of the United Nations Human Rights Committee.

79. The Government must take firm measures to end continuing police brutality, ill-treatment and torture in detention, particularly in Kosovo. In order to curb the present trend of impunity, all alleged cases of police irregularities must be thoroughly investigated and the persons responsible for such crimes brought to justice without delay.

80. The Special Rapporteur is alarmed by the escalating violence in Kosovo, and calls on the parties to refrain from the use of force and to end all armed activities in the region. She also urges the Government to ensure that the police and security forces operating in Kosovo carry out their duties in strict compliance with national and international human rights standards.

81. The Special Rapporteur urges the Government to reconsider its refusal to authorize the opening of an office of the United Nations High Commissioner for Human Rights in Kosovo, as previously called for by the Commission on Human Rights.

82. Irregularities and problems in the election process in Serbia, including deficiencies in the relevant legal framework, should be promptly addressed in accordance with the recommendations presented by the OSCE. The Government should allow equal access of all main political parties to State-run electronic media. It should also ensure that the new draft media law reflects the highest international standards pertaining to the right to freedom of expression.

IV. THE QUESTION OF MISSING PERSONS

83. The Commission on Human Rights, in resolution 1997/57, asked the Special Rapporteur to pay special attention to the question of missing persons in her reports. The issue is one of the most pressing human rights questions now faced in the countries covered by the Special Rapporteur's mandate. According to the latest ICRC data, some 19,676 persons are still listed as missing in Bosnia and Herzegovina, while Croatian government data puts the figure at 2,242 in Croatia. In her last reports to the Commission on Human Rights (E/CN.4/1998/13, E/CN.4/1998/14), the Special Rapporteur detailed the activities which have taken place in the region concerning missing persons. The question may well be asked, however, why so little progress has been made in resolving the fate of the missing, despite the efforts of numerous agencies and organizations.

84. Based on her personal findings, the Special Rapporteur would like to make the following observations:

The tragic truth which will likely have to be accepted by families and others is that the vast majority of missing persons have been killed. In this case, the only way to learn about missing persons' fates is to conduct exhumations.

Exhumations in the territory have been seriously hampered both by a lack of resources and by obstacles created by local authorities.

The lack of adequate ante mortem data makes it exceptionally difficult to identify many of the exhumed mortal remains.

85. The Special Rapporteur stated, when she was entrusted with responsibilities in connection to the issue of missing persons, that the main responsibility for solving the question is, and will remain, that of local and national authorities. They should have the support of international organizations in the field, but there should be no doubt as to their main responsibility.

86. The Special Rapporteur has reason to conclude that, in particular, the authorities of the Republika Srpska entity in Bosnia and Herzegovina, Bosnian Croat authorities in the Federation, and the authorities in the Federal Republic of Yugoslavia lack the political will to share all information available to them related to missing persons. She believes that this problem must be more energetically addressed by pertinent actors, including the International Commission on Missing Persons and the Office of the High Representative. United Nations mechanisms can play only a subsidiary role. The Special Rapporteur and the Office of the High Commissioner for Human Rights can raise the issue, keep the international community informed and exercise some pressure on responsible authorities. They cannot, however, perform the function of a tracing agency. As noted in the Dayton Agreement, it is the ICRC which must assume the central role in this matter.

87. The Special Rapporteur would also like to call for urgent action on the matter of so-called "hidden detention", which is related to missing persons. Rumours of continuing cases of hidden detention remain widespread and were fed by the cases of the two Bosnian Serbs found in military premises adjoined to the prison in Zenica (Federation). The Special Rapporteur demands, once again, that this case be fully investigated and the responsible persons be prosecuted for the illegal detention of the two. Clear procedures for systematic inspections of detention facilities must be put in place.

V. GENERAL CONCLUSIONS

A. The OHCHR field operation

88. The Special Rapporteur believes it has been vital to her mandate that she has actively travelled in the field. Even efficient reporting from field offices cannot substitute for one's own personal experiences. The Special Rapporteur thus travelled far more in the field than had been the previous practice. The field operation of the Office of the High Commissioner for

Human Rights played a crucial role, in cooperation with other international organizations and local NGOs, in making these missions useful and productive.

89. The OHCHR field operation, present in all the countries in the mandate of the Special Rapporteur, was initiated and has been maintained on the basis of resolutions of the Commission on Human Rights. It should be stressed that the respective Governments approved the establishment of the OHCHR offices and have offered the Special Rapporteur and OHCHR their full cooperation.

90. The specific activities of OHCHR field staff may be summarized as follows: gathering and analysing information about the human rights situation, preparing missions of the Special Rapporteur and conducting follow-up activities, assisting in the drafting of reports, statements, and other interventions, and helping to coordinate the work of all international organizations engaged in human rights activities. The Special Rapporteur would like to emphasize that a field presence staffed by competent professionals would be essential under any circumstances for the proper implementation of her mandate.

91. An efficient field operation demands much both from individual staff and from OHCHR headquarters in Geneva. Administrative and financial support provided by OHCHR in Geneva has depended fully on the efforts of a very few individuals, whose hard work has been greatly appreciated by the Special Rapporteur. She would like to point out, however, the lack of a clear delineation of administrative responsibilities for support to the field operation. The absence of one or two persons places the smooth functioning of the field operation greatly at risk. Overall resources, both human and financial, which are available to OHCHR headquarters in Geneva are clearly inadequate, and the Special Rapporteur calls on OHCHR and Governments to do everything possible to remedy this situation. It is the responsibility both of the leadership of the field operation and the leadership at headquarters in Geneva to monitor carefully the activities and well-being of staff in the field, and to make necessary interventions when either professional or personal problems occur.

92. OHCHR has suffered from an absence of organized fund-raising. At the same time that Governments assign new tasks to the Special Rapporteur through resolutions, they seldom commit the resources necessary to fulfil those tasks. In some cases OHCHR has itself been to blame for financial shortfalls. Governments have been ready to contribute to the activities of the Special Rapporteur, but the Secretariat has not reported in a timely manner on how earlier funds were used, nor did it produce necessary documents to obtain new contributions. The Special Rapporteur has stated that she is ready to support OHCHR in consultations with Governments in that regard. She hopes that the restructuring of OHCHR will help to resolve these problems. Moreover, the Special Rapporteur would like to recommend that the High Commissioner for Human Rights establish a professional fund-raising unit within OHCHR.

B. Support of the Government of Finland

93. The Special Rapporteur is grateful for the support which she has received from the Government of Finland in the exercise of her mandate. The decision to support her through the financing of a personal assistant, based

in Helsinki and who accompanied the Special Rapporteur on field missions, has been most important. The personal assistant has served as a focal point for the Special Rapporteur, coordinating all of her activities. He has also made the daily contacts between the field and the Special Rapporteur much easier.

C. Final thoughts

94. The countries covered by the mandate of the Special Rapporteur are not only going through a post-war era, they are experiencing a post-communist era. The political processes are strongly centralized, and there is a clear distance between authorities and citizens. Changes in legislation do not necessarily mean changes in reality at the "grass-roots" level. Implementation of legislation is slow. Media often do not report objectively and most issues in society are highly politicized.

95. In the field of human rights, a main difficulty is that the discussion focuses on collective rights and the rights of ethnic groups, not individual rights. Yet within every group there are different needs, different subgroups. There are the rights of the child, the rights and the needs of disabled persons, the right to equality between the sexes, and so on. These must be considered, and to accomplish this we must more clearly acknowledge individual rights.

96. The Special Rapporteur has noted with satisfaction the instances in which the Governments in the region of her mandate have implemented some of her recommendations or seriously tried to solve problems described in her reports. Much still remains to be done. She believes it to be crucial that the mandate of the Special Rapporteur continue to cover the three countries: Bosnia and Herzegovina, the Republic of Croatia, and the Federal Republic of Yugoslavia. Despite the differences in the situations in different parts of the former Yugoslavia, many basic problems referred to in the present report are much the same, and their causes and solutions are still strongly linked. Many human rights issues do not recognize the borders between the countries.

97. The only leverage available to the Special Rapporteur has been her high visibility, which guarantees a high profile for issues of human rights, through field missions, reports and communications with officials. The Special Rapporteur would like also to thank the representatives of the media in the region for closely following her activities. They have given much space to human rights issues, both reported violations and more generally, thereby educating a broader public. The Special Rapporteur is also thankful for the excellent cooperation she has received from the local NGO community and from other international organizations. She has found it very encouraging that cooperation with other international organizations has emphasized the goal of all activities in the human rights field in the region: to help societies create their own institutions and laws, regardless of boundaries between international actors, and regardless of who will get the credit for different efforts. It is important, above all, to remember constantly why we are there in the first place.